

AUG. 24. 2006 5:01PM

HARRINGTON & SMITH

RECEIVED
CENTRAL FAX CENTER NO. 953 P. 1

AUG 24 2006

4 Research Drive
Shelton, CT 06484-6212
Phone: (203) 925-9400
Fax: (203) 944-0245
Email: Patent@HSpatent.com
www.HSpatent.com

Harrington & Smith, LLP

Fax

BEST AVAILABLE COPY

To: Mail Stop TC 2100

From: Walter Malinowski

Attn: James Dwyer, Director

Harrington & Smith, LLP

Fax: 571-273-8300

Pages: 6 : 3 sheets of fax cover sheets including
this one and 3 sheets of email

Phone: 203-925-9400, extension 19

Date: 8/24/2006

Re: Serial No. 10/608,943

CC:

Our Ref: 873.0124.U1(US)

Urgent **X For Review** **Please Comment** **Please Reply** **Please Recycle**

Dear Director Dwyer:

I am prosecuting Serial No. 10/608,943, before GAU 2133. We received a Final Office Action that bears a mail date of June 28, 2006, responsive to our response received by the PTO on March 27, 2006. In our March 2006 response, we presented claims 1-30 in which claims 27-30 were new and claim 26 was amended.

Comparing the Final Office Action dated June 28, 2006, with the previous Office Action dated January 12, 2006, the rejection of claim 26 is verbatim even though it has been substantially amended. Further, claims 27-30 were not mentioned anywhere in the Final Office Action dated June 28, 2006, nor was certain newly claimed subject matter - e.g., non-zero element locations and column of a parity check matrix. We request that a new Office Action be provided with a resetting of the time period for response. If needed, please consider this a petition for a complete Office Action – or, a petition for withdrawal of finality of the last Office Action. MPEP 1002.02(c) 3.a; 706.07(c); 37 C.F.R. 1.181; 707.07. (Please see attached email and fax for contact history with GAU 2133).

Regards, Walter Malinowski, Registration No. 43,423

Walter J. Malinowski

CONFIDENTIALITY NOTICE: This fax transmission (and/or the attachments accompanying it) may contain confidential information belonging to the sender which is protected by attorney-client privilege. The information is only for the use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. Any unauthorized interception of this transmission is illegal under the law. If you have received this transmission in error, we would appreciate your promptly notifying the sender, and then please destroy all copies of the transmission.

AUG. 24. 2006 5:01PM HARRINGTON & SMITH

NO. 953 P. 2 p. 1

* * * COMMUNICATION RESULT REPORT (AUG. 23. 2006 9:56AM) * * *

FAX HEADER: HARRINGTON & SMITH

TRANSMITTED/STORED : AUG. 23. 2006 9:54AM FILE MODE	OPTION	ADDRESS	RESULT	PAGE
923 MEMORY TX		G3 : 15712738300	OK	4/4

BEST AVAILABLE COPY

REASON FOR ERROR
E-1} HANG UP OR LINE FAIL
E-2} NO ANSWER
E-3} MAIL SIZE OVER

E-2} NO FACSIMILE CONNECTION

4 Research Drive
Shelton, CT 06484-6212
Phone: (203) 925-9400
Fax (203) 944-0245
Email: Patent@HSpatent.com
www.HSpatent.com

Harrington & Smith, LLP

Fax

To: Mail Stop TC 2139	From: Walter Malinowski, Reg. No. 43,423
Fax: 571-273-8300	Pages: 4 (including cover sheet)
Phone: 203-925-9400, extension 19	Date: 8/23/2006
Re: Serial No. 10/608,943	cc: Primary Examiner Stephen Baker
Our Ref: 873.0124.U1(US)	SPE Albert DeCady
<input checked="" type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input checked="" type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

Dear Examiner Baker:

On August 7, we notified you that the Office Action mailed June 28, 2006, for Serial No. 10/608,943, appeared to be incomplete and, on August 9, you emailed in reply that you would review the action and re-do if necessary. We had also spoken by phone in that time period and my understanding was that an Office Action, if the noted one were incomplete, would be mailed within a week or so. Two weeks have now elapsed and the two month anniversary of the mail date of this Office Action is just a few days away (August 28). We still have not received an Office Action nor explanation as to how the June 28, 2006, Office Action was complete. Upon further review, as noted in the email of August 22, certain claimed subject matter in new claims 27-30 from our March 2006 response is not found in the other claims and was not apparently treated in the Office Action of June 28, 2006. We request that a complete Office Action be provided. If we need to petition to have this matter considered, please let us know who to petition to.

Regards,

Walter Malinowski, Reg. No. 43,423

CONFIDENTIALITY NOTICE: This fax transmission (and/or the attachments accompanying it) may contain confidential information belonging to the sender which is protected by attorney-client privilege. The information is only for the use of the recipient or his/her authorized agents. Any unauthorized disclosure, copying, distribution, or retention of this information is strictly prohibited.

PAGE 2/6 * RCVD AT 8/24/2006 4:55:34 PM (Eastern Daylight Time) * SVR:USPTO-EFXRF-5/11 * DNI:2738300 * CSID:2039440245 * DURATION (mm:ss):01:36

AUG. 24. 2006 5:02PM HARRINGTON & SMITH

RECEIVED
CENTRAL FAX CENTER NO. 953 P. 3

AUG 24 2006

4 Research Drive
Shelton, CT 06484-6212
Phone: (203) 925-9400
Fax: (203) 944-0245
Email: Patent@HSpatent.com
www.HSpatent.com

Harrington & Smith, LLP

BEST AVAILABLE COPY

Fax

To: Mail Stop TC 2133 From: Walter Malinowski, Reg. No. 43,423
Fax: 571-273-8300 Pages: 4 (including cover sheet)
Phone: 203-925-9400, extension 19 Date: 8/23/2006
Re: Serial No. 10/608,943 CC: Primary Examiner Stephen Baker
Our Ref: 873.0124.U1(US) SPE Albert DeCady

Urgent For Review Please Comment Please Reply Please Recycle

Dear Examiner Baker:

On August 7, we notified you that the Office Action mailed June 28, 2006, for Serial No. 10/608,943, appeared to be incomplete and, on August 9, you emailed in reply that you would review the action and re-do if necessary. We had also spoken by phone in that time period and my understanding was that an Office Action, if the noted one were incomplete, would be mailed within a week or so. Two weeks have now elapsed and the two month anniversary of the mail date of this Office Action is just a few days away (August 28). We still have not received an Office Action nor explanation as to how the June 28, 2006, Office Action was complete. Upon further review, as noted in the email of August 22, certain claimed subject matter in new claims 27-30 from our March 2006 response is not found in the other claims and was not apparently treated in the Office Action of June 28, 2006. We request that a complete Office Action be provided. If we need to petition to have this matter considered, please let us know who to petition to.

Regards,

Walter Malinowski, Reg. No. 43,423

CONFIDENTIALITY NOTICE: This fax transmission (and/or the attachments accompanying it) may contain confidential information belonging to the sender which is protected by attorney-client privilege. The information is only for the use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. Any unauthorized interception of this transmission is illegal under the law. If you have received this transmission in error, we would appreciate your promptly notifying the sender, and then please destroy all copies of the transmission.

Walter J. Malinowski

From: Walter J. Malinowski
Sent: Tuesday, August 22, 2006 10:40 AM
To: 'Baker, Stephen'; 'albert.decaday@uspto.gov'
Subject: RE: U.S. Patent Application No. 10/608,943; Our Ref: 873.0124.U1(US); Re: Final Office Action mailed June 28, 2006
Importance: High

CONFIDENTIAL/ PRIVILEGED COMMUNICATION

Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning the below noted matter of the below noted patent application by electronic mail. I understand that a copy of these communications will be made of record in the application file.

Dear Examiner Baker:

I checked Public PAIR today for serial no. 10/608,943 and do not see that another Office Action has been mailed. As discussed below (emails of August 07 and 09), the Office Action of June 28, 2006, did not address new claims 27-30 at all - not in the header of a rejection nor in the body - and it also appears that subject matter of these new claims - e.g., non-zero element locations and column of a parity check matrix - was not addressed in that Office Action. We request verification by you that the Office Action of June 28, 2006, was Incomplete and request, accordingly, that a new Office Action be provided with a resetting of the time period for response. We would prefer that any new Office Action be mailed before the expiration of the shortened statutory period of September 28, 2006. Please note that claim 26 was also amended in the response dated March 22, 2006.

Thank you for the allowance of claims 11-19.

Best regards,

Walter Malinowski

—Original Message—

From: Baker, Stephen [mailto:Stephen.Baker@USPTO.GOV]
Sent: Wednesday, August 09, 2006 5:46 PM
To: Walter J. Malinowski
Subject: RE: U.S. Patent Application No. 10/608,943; Our Ref: 873.0124.U1(US); Re: Final Office Action mailed June 28, 2006

Dear Mr. Malinowski:

Thank you for notifying me of this. I will review the action and re-do it if necessary. After I've had a chance to see if anything significant needs to be added to the Office action I will let you know.

Regards,

S. Baker
USPTO Art Unit 2133

AUG. 24. 2006 5:02PM HARRINGTON & SMITH

NO. 953 P. 5

RE: U.S. Patent Application No. 10/608,943; Our Ref: 873.0124.U1(US); Re: Final Offic... Page 2 of 3

RECEIVED
CENTRAL FAX CENTER

[Baker, Stephen]

---Original Message---

From: Walter J. Malinowski [mailto:WMalinowski@hspatent.com]

Sent: Wednesday, August 09, 2006 2:55 PM

To: Baker, Stephen

Subject: RE: U.S. Patent Application No. 10/608,943; Our Ref: 873.0124.U1(US); Re: Final Office Action mailed June 28, 2006

Importance: High

AUG 24 2006

PRIVILEGED CONFIDENTIAL SUBJECT MATTER

Follow up email

Dear Examiner Baker:

Regarding the final office action dated June 28, 2006, it appears that the action is incomplete. According to the copy of the amendment we filed March 22, 2006 (you refer to this amendment as being filed March 27, 2006), claims 1-30 were pending. Claims 27-30 were newly added, claim 30 being an independent claim. There appears to be no treatment anywhere in the June 28, 2006, Final Office Action of claims 27-30. Will you please acknowledge this email and let us know, if we are right, that you will send out another office action?

Thank you,

Walter Malinowski
Registration No. 43,423

Harrington & Smith, LLP

---Original Message---

From: Walter J. Malinowski

Sent: Monday, August 07, 2006 9:49 AM

To: 'stephen.baker@uspto.gov'

Subject: U.S. Patent Application No. 10/608,943; Our Ref: 873.0124.U1(US); Re: Final Office Action mailed June 28, 2006

Importance: High

PRIVILEGED CONFIDENTIAL SUBJECT MATTER

Dear Examiner Baker:

Regarding the final office action dated June 28, 2006, it appears that the action is incomplete. According to the copy of the amendment we filed March 22, 2006 (you refer to as March 27, 2006), claims 1-30 were pending. Claims 27-30 were newly added, claim 30 being an independent claim. There appears to be no treatment anywhere in the June 28, 2006, Final Office Action of claims 27-30.

AUG. 24. 2006 5:02PM HARRINGTON & SMITH

NO. 953 P. 6

RE: U.S. Patent Application No 10/608,943; Our Ref: 873.0124.U1(US); Re: Final Offic... Page 3 of 3

Regards,

Walter Malinowski
Registration No. 43,423

Harrington & Smith, LLP